

Attorneys admitted in
California, New York,
Texas, Pennsylvania,
Colorado, and Illinois

Sender's contact:
stephen@donigerlawfirm.com
(310) 590-1820



Doniger / Burroughs Building
603 Rose Avenue
Venice, California 90291

Doniger / Burroughs NY
247 Water Street, First Floor
New York, New York 10038

February 8, 2024

DELIVERED VIA ECF

The Honorable Sarah Netburn
Thurgood Marshall Courthouse
40 Foley Square, Courtroom 219
New York, NY 10007

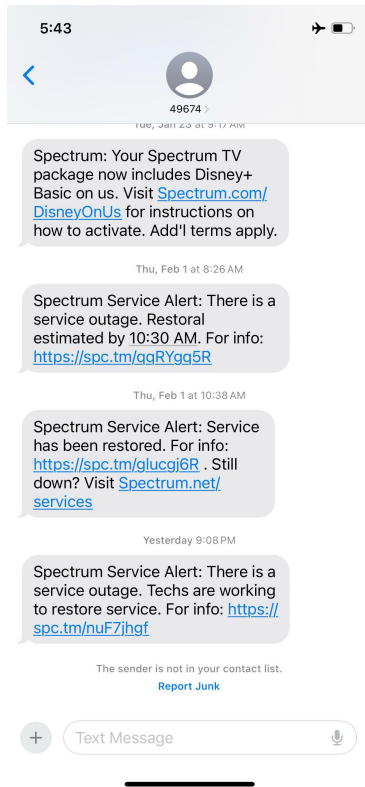
Case Title: *Freeman v. Deebs-Elkenaney et al,*
1:22-cv-02435-LLS-SN
Re: **Request to extend summary judgment filing date by two days.**

Your Honor:

I am writing to address our client's recent summary judgment filings. While some of those documents were timely filed yesterday, others were filed after midnight. Although there were extenuating circumstances, I take full responsibility for our failure to get all the documents timely filed and ask this Court, which has already been so gracious and accommodating to the parties in this case, to accept those filings without prejudice to my client.

As this Court can see from yesterday's ECF entries, my office began uploading its filings at approximately 8:30pm Pacific time (11:30pm Eastern). Unfortunately, between 8:45 and 9:15pm we had three separate power outages, each of which caused our entire system to shut down and need to restart. Those occurred as one paralegal was finalizing the table of contents and authorities for our summary judgment reply brief (ECF 335) and another was trying to upload our other filings. After each outage, we had to wait for our computers to boot back up, get back into all files, log back in to PACER, and recreate the work that was lost when our systems went down, including the tables in our reply brief. Ultimately, we had to file that brief with an incomplete Table of Contents, and so concurrent with this letter we are filing an amended reply brief—the only change is to the TOC and section heading/formatting—which we respectfully request the Court use instead of ECF 335.

The power outage issue was not just with our office. I checked with the restaurant next door (<http://www.wallflowervenice.com/>) which confirmed that the same thing happened there (and it was thus shutting down the kitchen for the night). And this morning, my wife confirmed that (1) the same thing happened at our home (which is approximately 1.5 miles away from our office), and (2) she received the below Spectrum service alert text regarding a service outage at 9:08pm:



I don't know if this is related to the atmospheric river that has been causing so much chaos in Southern California, but local news reported on Tuesday that "Mudslides, Power Outages, and Road Closures Continue, Rain Not Over." See <https://westsidetoday.com/2024/02/07/atmospheric-river-update-for-los-angeles-santa-monica-and-malibu-february-6-2024/>.

I am not one to make excuses, and the failure to begin our filings before 11:30pm is mine as I was the one overseeing this briefing. My team did excellent work getting drafts of these filings done on February 6, 2024, such that basically all that needed to be done yesterday was final review/edits, properly citing to the additional "undisputed facts" in the briefs, and preparing tables and redacted copies. Unfortunately, I woefully underestimated the time it would take to connect the additional "undisputed facts" to the briefs and did not manage my team as efficiently as I could have. I pray this not be held against my client and thank Your Honor for consideration of this letter.

Respectfully submitted,

By: /s/ Stephen M. Doniger
 Stephen M. Doniger
 Scott Alan Burroughs
 DONIGER / BURROUGHS, PC
 For the Plaintiff